



GOVERNOR'S OFFICE OF  
BUDGET AND PROGRAM PLANNING

## Fiscal Note 2009 Biennium

<b>Bill #</b>	HB0336	<b>Title:</b>	Contracted government services accountability
<b>Primary Sponsor:</b>	Cohenour, Jill	<b>Status:</b>	As Introduced

- |   |  |  |
|---|--|--|
| <input type="checkbox"/> Significant Local Gov Impact     | <input type="checkbox"/> Needs to be included in HB 2  | <input checked="" type="checkbox"/> Technical Concerns   |
| <input type="checkbox"/> Included in the Executive Budget | <input type="checkbox"/> Significant Long-Term Impacts | <input type="checkbox"/> Dedicated Revenue Form Attached |

### FISCAL SUMMARY

	<u>FY 2008 Difference</u>	<u>FY 2009 Difference</u>	<u>FY 2010 Difference</u>	<u>FY 2011 Difference</u>
<b>Expenditures:</b>				
General Fund	unknown	unknown	unknown	unknown
<b>Revenue:</b>				
General Fund	\$0	\$0	\$0	\$0
<b>Net Impact-General Fund Balance</b>	<u>unknown</u>	<u>unknown</u>	<u>unknown</u>	<u>unknown</u>

### Description of Fiscal Impact:

HB 336 requires state agencies contracting for the procurement of services to require that the contractor and any approved transferee, assignee, and subcontractor provide the agency with the number of individuals employed to perform the contract, the location at which the contract is performed, the hours worked to perform the contract, and the wages and benefits paid to the individuals to perform the contract. The fiscal impact from this bill is not easily quantifiable.

### FISCAL ANALYSIS

#### Assumptions:

##### **State Agencies**

1. There may be a substantial fiscal impact from this bill, but the impacts are not easily quantifiable.
2. It is assumed that no database will be developed or maintained to store this information and that no analysis, reporting, or coordinating of this data is required by state agencies.
3. It is assumed that additional record keeping and disclosure requirements may limit the number of contractors willing to do business with the State of Montana. This could lead to decreases in the number of competing contractors and ultimately increase the amount spent on contracts.

4. Currently, contract managers check invoice detail against contracts to verify compliance, but do not audit the contractor's books for compliance. It is assumed that state agencies will not be required to audit the books of each contractor to verify compliance with this bill. If departments were required to perform on-site audits of the contractors, additional FTE and travel expenses (including out-of-state travel) would be required, but associated program costs are not easily quantifiable.

**Long Range Planning**

5. This bill will not apply to any services related to construction contracts per 18-4-123(18)(b), but only to professional services contracts (architects and engineers) and no others that the Architecture & Engineering Division executes in the prosecution of the State's building construction program.
6. Any format submitted by an architecture or engineering firm will be acceptable and no compiling, assembling, or reporting of the information will be required of the Division. The information would only be kept on file by the Division.
7. The division may have a confidentiality requirement placed upon it as rates, benefits, and other data from the A/E firms may not be available as a public record.
8. No submission and collection of the information would be required until the A/E contract has reached final acceptance of the project(s).

**Technical Notes:****Department of Administration**

1. As written, the bill does not limit its application only to service contracts for which a competitive procurement process is required. The bill's plain language would appear to apply to the purchase of any service, including ordinary commercial airline travel, overnight lodging, or motor vehicle rental.
2. The term "number of individuals employed to perform the contract" is under-defined. It is unclear if the wording means only on-site individuals employed or if it includes the contractors office staff carrying on the administrative portions of contracts, such as billing, legal review, contractor management and others.
3. Since all procurement documents are public documents, the public, including the competing vendors, have a right to inspect this information. The department assumes that some private sector companies will be reluctant to provide the required information, or simply do business with the state, since their employment information would be available to their competitors.

**Department of Public Health and Human Services**

4. The Child Support Enforcement Division (CSED) has a contract with a collection business, which is free to the state. CSED sends bad debts to Collection Bureau Services and upon collection of the debt, CSED receives payment of the entire amount owed. The Collection Bureau Services charges a fee to the person from whom the debt was collected. It is unclear from the language of the bill whether this type of contract would be included in the requirements.
5. The CSED also contracts with a company for paternity testing in child support cases for babies born out of wedlock. This company contracts with medical professionals all across the United States who collected DNA samples. The company pays these professionals a per draw fee, the time to collect the sample is minimal consisting of using a swab to collect tissue from the mouth of the individual and mailing the sample to this company. It would be very difficult and voluminous to obtain the information required by this bill for professionals across the United States who collect DNA samples. This company also has a customer service center used by everyone they contract with. It may be difficult for them to track Montana's use apart from other users and to track the information requested in the bill for each Montana call.
6. The Senior and Long Term Care Division (SLTC) contracts with local Area Agencies on Aging (AAA's) to provide services in the communities, such as Meals on Wheels and congregate elderly feeding programs. It is assumed that this bill will require an increase in workload for the AAA's doing business with the state. It is assumed that this increase in cost will be passed along either in a reduction in services or in an increase in the cost of the contract.

7. This bill does not apply to most of the Department of Public Health and Human Services' contracts. The bill places the accounting requirement in the provision of the Montana Procurement Act and all of the department's contracts for the purchase of "human services" are exempted from that act in accordance with 18-4-123(18), MCA.

**Long Range Planning**

8. The "agency" in 18-8-211 MCA also applies to all local governments and school districts for the selection of architects and engineers. The bill appears to require that they also collect this data.

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*Sponsor's Initials*

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*Date*

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*Budget Director's Initials*

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*Date*